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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/014,202	11/13/2001	Srinivas Gutta	US010572	2934

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EXAMINER

LASTRA, DANIEL

ART UNIT	PAPER NUMBER
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3622

DATE MAILED: 03/11/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/014,202

Applicant(s)

GUTTA, SRINIVAS

Examiner

DANIEL LASTRA

Art Unit

3622

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 May 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-23 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 05/21/03.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

1. Claims 1-23 have been examined. Application 10/014,202 (METHOD AND APPARATUS FOR RECOMMENDING ITEMS OF INTEREST BASED ON PREFERENCES OF A SELECTED THIRD PARTY) has a filing date 11/13/2001.

Claim Rejections - 35 USC § 101

2. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 1-13 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

The basis of this rejection is set forth in a two-prong test of: (1) whether the invention is within the technological arts; and (2) whether the invention produces a useful, concrete, and tangible result.

For a claimed invention to be statutory, the claimed invention must be within the technological arts. Mere ideas in the abstract (i.e., abstract idea, law of nature, natural phenomena) that do not apply, involve, use, or advance the technological arts fail to promote the "progress of science and the useful arts" (i.e., the physical sciences as opposed to social sciences, for example) and therefore are found to be non-statutory subject matter. For a process claim to pass muster, the recited process must somehow apply, involve, use, or advance the technological arts.

In the present case, the instant claims fail to recite the use of any type of technology (e.g. computer system) within the recited steps of the claimed method of recommending one or more available items.

Mere intended or nominal use of a component, albeit within the technological arts, does not confer statutory subject matter to an otherwise abstract idea if the component does not apply, involve, use, or advance the underlying process.

Additionally, for a claimed invention to be statutory, the claimed invention must produce a useful, concrete, and tangible result.

Although the claimed invention produces a useful, concrete and tangible result, since the claimed invention as a whole is not within the technological arts, as explained above, claims 1-13 are deemed to be directed to non statutory subject matter.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-23 are rejected under 35 U.S.C. 102(b) as being anticipated by Herz et al (U.S. 5,758,257).

As per claim 1, Herz teaches:

A method for recommending one or more available items, comprising the steps of:

obtaining a history of selecting one or more available items by at least one third party (see column 5, lines 24-54); and

generating a recommendation score for at least one of said available items based on said third party selection history (see column 5, lines 5-20).

As per claim 2, Herz teaches:

The method of claim 1, further comprising the step of partitioning said third party selection history into clusters containing similar items (see column 5, lines 24-54).

As per claim 3, Herz teaches:

The method of claim 2, wherein said obtaining step further comprises the step of receiving a user selection of one or more of said clusters of similar items (see column 5, lines 24-54).

As per claim 4, Herz teaches:

The method of claim 1, wherein said one or more items are programs (see column 5, lines 1-20).

As per claim 5, Herz teaches:

The method of claim 1, wherein said one or more items are content (see column 8, lines 20-25).

As per claim 6, Herz teaches:

The method of claim 1, wherein said one or more items are products (see column 47, lines 53-67).

As per claim 7, Herz teaches:

A method for maintaining a user profile indicating preferences of a user, comprising the steps of:

partitioning a third party selection history into clusters containing similar items (see column 5, lines 24-54);

receiving a selection from said user of at least one of said clusters of similar items (see column 5, lines 24-54); and

updating said user profile using said selected clusters (see column 6, lines 50-55).

As per claim 8, Herz teaches:

The method of claim 7, wherein said user profile is associated with a program content recommender (see column 4, lines 32-57).

As per claim 9, Herz teaches:

The method of claim 8, wherein said user profile indicates viewing preferences of said user (see column 4, lines 40-47).

As per claim 10, Herz teaches:

The method of claim 7, wherein said step of updating said user profile further comprises the steps of updating a selection history of said user with items from said selected clusters and updating said user profile using said updated selection history (see column 6, lines 10-60).

As per claim 11, Herz teaches:

The method of claim 7, wherein said one or more items are programs (see column 5, lines 1-21).

As per claim 12, Herz teaches:

The method of claim 7, wherein said one or more items are content (see column 8, lines 12-22).

As per claim 13, Herz teaches:

The method of claim 7, wherein said one or more items are products (see column 47, lines 52-67).

As per claim 14, Herz teaches:

A system for recommending one or more available items, comprising:

a memory for storing computer readable code; and

a processor operatively coupled to said memory, said processor configured to:
obtain a history of selecting one or more available items by at least one third party; and
generate a recommendation score for at least one of said available items based on said third party selection history. The same rejection applied to claim 1 is applied to claim 14.

As per claim 15, Herz teaches:

The system of claim 14, wherein said processor is further configured to partition said third party selection history into clusters containing similar items. The same rejection applied to claim 2 is applied to claim 15.

As per claim 16, Herz teaches:

The system of claim 15, wherein said processor is further configured to receive a user selection of one or more of said clusters of similar items. The same rejection applied to claim 3 is applied to claim 16.

As per claim 17, Herz teaches:

A system for recommending one or more available items, comprising:

means for obtaining a history of selecting one or more available items by at least one third party; and

means for generating a recommendation score for at least one of said available items based on said third party selection history. The same rejection applied to claim 1 is applied to claim 17.

As per claim 18, Herz teaches:

A system for maintaining a user profile indicating preferences of a user, comprising:

- a memory for storing computer readable code; and
- a processor operatively coupled to said memory, said processor configured to:
 - partition a third party selection history into clusters containing similar items;
 - receive a selection from said user of at least one of said clusters of similar items;

and update said user profile using said selected clusters. The same rejection applied to claim 7 is applied to claim 18.

As per claim 19, Herz teaches:

The system of claim 18, wherein said user profile is associated with a program content recommender. The same rejection applied to claim 8 is applied to claim 19.

As per claim 20, Herz teaches:

The system of claim 18, wherein said user profile indicates viewing preferences of said user. The same rejection applied to claim 9 is applied to claim 20.

As per claim 21, Herz teaches:

The system of claim 18, wherein said step of updating said user profile further comprises the steps of updating a selection history of said user with items from said

selected clusters and updating said user profile using said updated selection history.
The same rejection applied to claim 10 is applied to claim 21.

As per claim 22, Herz teaches:

An article of manufacture for recommending one or more available items,
comprising:

a computer readable medium having computer readable code means embodied
thereon, said computer readable program code means comprising:

a step to obtain a history of selecting one or more available items by at least one
third party; and

a step to generate a recommendation score for at least one of said available
items based on said third party selection history. The same rejection applied to claim 1
is applied to claim 22.

As per claim 23, Herz teaches:

An article of manufacture for maintaining a user profile indicating preferences of
a user, comprising:

a computer readable medium having computer readable code means embodied
thereon, said computer readable program code means comprising:

a step to partition a third party selection history into clusters containing similar
items;

a step to receive a selection from said user of at least one of said clusters of
similar items; and

a step to update said user profile using said selected clusters. The same rejection applied to claim 7 is applied to claim 23.

Conclusion

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

- Eldering teaches targeting ads to subscribers based on privacy protected subscriber profiles.
- Oldale teaches a collaborative filtering system.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DANIEL LASTRA whose telephone number is 703-306-5933. The examiner can normally be reached on 9:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, ERIC W STAMBER can be reached on 703-305-8469. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

The Examiner is scheduled to move to the new Alexandria office in April 2005 (or later). The Alexandria phone number would be 571-272-6720 and RightFax number 571-273-6720. The examiner's supervisor, Eric W. Stamber, new Alexandria number would be 571-272-6724. The current numbers would be in service until the move.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

DL

Daniel Lastra
February 25, 2005

Yehdega Rotta
Primary Examiner
AU 3622